

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
DELAWARE-MARYLAND DISTRICT  
31 HOPKINS PLAZA  
BALTIMORE, MD 21201

DEPARTMENT OF THE TREASURY

Person to Contact:

Contact Telephone Number:

Reply to:

Date:

DEC 19 1990

CERTIFIED MAIL:

Dear Applicant:

We have considered the application for tax exempt status under section 501(c)(3) of the Internal Revenue Code and have concluded that based on the information provided, we are unable to determine whether your organization qualifies for exemption under this section. Our reasons for this conclusion and the facts on which it is based are explained below.

The evidence submitted indicates that you were incorporated

The purpose of the corporation, as described in your articles of incorporation, "is to provide educational travel opportunities to disadvantaged youth, "at risk youth" and educationally deprived youth." These articles of incorporation also limit your purposes to educational purposes as described in section 501(c)(3) of the Internal Revenue Code and provide for the distribution of your assets in the event the corporation dissolves.

You state in your application that your primary activity is to conduct two week travel to . You state that to date, "we have planned one two-week trip to and in and one for

You further state in your application that "these are not , we will be hunting for the similarities between the culture and our culture. We will also be building bridges between the two cultures and providing those children who feel trapped at the bottom of America's economic and political structure an a alternative and a way out if they choose it."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date							

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury/Internal Revenue Service

\*U.S. GPO 1989-244-484

Page 2.

You state in your original application that participants in this program "will be young people, ages 14-19.

They will be selected based on income bracket, and risk factors based on a social assessment. We will conduct a home visit, and also interview the child to determine their ability to interact in a group and follow instruction. We will recruit our candidates from amongst the social service agencies, schools and churches in [REDACTED] for potential applicants."

You indicate in your application that [REDACTED] board has not drafted the application describing the requirements for potential participants in this program to file for possible participation in this program.

You state in your application that prior to making the first trip to [REDACTED] in [REDACTED], a series of six workshops will be conducted by [REDACTED]. These workshops will be completed in six sessions or less and will include the following:

1. Introduction to [REDACTED]; visa, passport, shots, information.
2. [REDACTED] history and culture, climate, introduction to [REDACTED], do's and don'ts while in [REDACTED].
3. Self-esteem building workshop (includes pretest and literacy exam pre-test).
4. Trip to [REDACTED] embassy.
5. Video Workshop;
6. Trip to [REDACTED] for introduction to [REDACTED].

You indicate that [REDACTED] will be conducted by [REDACTED] by a self-esteem specialist and the literacy pre-test will be conducted by your part-time literacy teacher. All other sessions will be conducted by [REDACTED].

You indicate that your Board of Directors will also participate in the planned trips with your [REDACTED] scheduled to accompany the children on their inaugural [REDACTED], along with [REDACTED] and another adult chaperone with a social work or teaching background. After the initial [REDACTED], you indicate that "board participation will rotate amongst who is available."

In our request for additional information, we asked that a copy of your planned curriculum and itinerary for the trip be submitted. You indicate in your [REDACTED], response that "Other than the workshop activities described, our curriculum has not been developed." You also indicate that you do not have an itinerary but provide a very broad description of the types of activities in which you expect to engage. These include the following:

- a. Spend time visiting people's homes.
- b. Taking dancing and drumming lessons.
- c. Taking fishing and cooking lessons.
- d. Visit marketplaces, schools and places of worship.
- e. Visit [REDACTED], where the slaves houses are located and [REDACTED].
- f. Visit the rural areas in the [REDACTED].
- g. Learn to plant and harvest rice and how to live close to the land for 2 or 3 days.

You also indicate that you expect that some days the entire day would be devoted to sightseeing and other days there would be no time allocated for sightseeing. You have provided an estimate that during the two week trip, approximately 14 hours of sightseeing might be involved.

Income to your organization is expected from contributions and gifts and grants from the community. Your initial proposed budget for [REDACTED] showed anticipated income in 1997 of \$ [REDACTED] with expenses of \$ [REDACTED] and \$ [REDACTED] for fundraising. A revised projected budget for [REDACTED] shows no specific amount of income but projects expenses as follows:

Consultant and Professional Fees	\$
Speakers Honorarium [REDACTED] speakers @ [REDACTED]	
Teacher [REDACTED] rs @ \$ [REDACTED] hour	
Teacher's budget	
Overseas Travel and Per Diem [REDACTED] kids, [REDACTED] adults	
[REDACTED] @ \$ [REDACTED]	

Equipment

Fax, copier, phone line  
Computer Hardware & Software  
TV, VCR, Camcorder  
Film and editing supplies  
Stationary/Office Supplies  
Postage  
Rent

\$



Section 501(c)(3) of the Internal Revenue Code provides for the exemption from federal income tax for organizations organized and operated exclusively for charitable, religious, educational and other stated purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations specifies that an organization is organized for one or more exempt purposes, if its Articles of Incorporation limit the purposes of such organization to exempt purposes.

Section 1.501(c)(3)-1(b)(4) of the Regulations provides that an organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to the Federal government, or to a State or local government for a public purpose.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated for any purpose under section 501(c)(3) unless it serves a public rather than a private interest. Thus, to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized and operated exclusively for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled directly or indirectly by such private interests. In Better Business Bureau v. United States, 326 U.S. 279-283, the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes.

To qualify for exemption under section 501(c)(3), the applicant organization must show that (1) it is organized and operated exclusively for religious, charitable, or other stated purposes, (2) that no part of the net earnings of the organization inures to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consists of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. See Kenner v. Commissioner, 318F. 2nd, 632, (7th Cir. 1963).

Revenue Ruling 70-534, 1970-2, C.B. 113, describes an exempt travel tour organization. The organization's primary activity was conducting travel study tours that included courses taught by certified teachers on the culture of the United States, foreign countries and nature studies.

The study tours lasted several weeks, and participation in the study program was mandatory. Five to six hours per day were devoted to organized study, preparation of reports, lectures, and instruction and recitation by the students. A library of books, pamphlets and materials relating to the courses being taught was readily available to the students. Examinations were administered at the end of the tours and each student was graded for the course. Under these circumstances, the organization was held to be exempt under section 501(c)(3) because the organization was performing the instruction or training of the individual for the purpose of developing his or her capabilities.

Revenue Ruling 77-366, 1977-2, C.B. 192, discusses an organization that arranged and conducted winter-time ocean cruises for clergymen and their families. In addition to arranging for these tours, the organization conducted a schedule of lectures, discussion groups and workshops on religious topics. These activities were conducted for about 4 hours daily. The remainder of the time was available for meals, recreational activities and social functions. This revenue ruling concluded that the organization was not entitled to exemption under section 501(c)(3) since its activities served a substantial non-exempt purpose of furthering the recreational and social needs of the participants rather than exclusively educational purposes.

In Revenue Ruling 78-43, 1978-1, C.B., 164, an exempt organization was engaged in conducting travel tours to various destinations around the world. There was no formal educational program conducted in connection with these tours. This ruling holds that travel tour activity is not in itself an educational activity. By making various travel tours available to its members, the exempt organization was furnishing its members with a regularly carried on commercial service not substantially related to the educational purposes of the organization.



In LaVerdad v. Commissioner, 82 USTC 215, the court discusses a situation where an organization applies for tax exempt status in advance of operations. The court states that "it is acknowledged that an organization may seek tax-exempt status in advance of operations.

It must however, describe its operations in sufficient detail to permit the conclusion that the organization will meet the necessary requirements of the section under which exemption is claimed." Without adequate information, denial of exemption is warranted. Church in Boston v. Commissioner, 71 T.C. 102, (1978).

In Levy Family Tribe v. Commissioner, 69 USTC, 615, the court reviews an application for an organization seeking tax-exempt status under section 501(c)(3). Under this section an organization must establish that it is organized and operated exclusively for one or more exempt purposes and that it serves public rather than private interests.

In Levy, the court states that "No where in the administrative record is there any description or explanation of how the conducted activity furthers an exempt purpose. The record is replete with unsupported generalizations. These explanations are too general and lack the facts necessary to establish public rather than personal purposes of the organization. Since there was no concrete information on how the organization's activities furthered an exempt purpose, the court determine that the organization failed both the organizational and operational tests of section 501(c)(3) and was not entitled to exemption under this section.

In General Conference of the Free Church v. Commissioner, 71 USTC 920-932, an organization seeking tax exempt status under section 501(c)(3) described their proposed activities in broad generalities rather than providing specific, detailed information. In denying exemption to the organization, the court stated that the organization had not demonstrated that it was operated in furtherance of an exempt purpose. In addition, it also did not demonstrate that it served public rather than private interests.

In Schoger Foundation v. Commissioner, 76 T.C. 380 (1981) and Syrang Aero Club Inc. v. Commissioner, 73 T.C. 717 (1980), the court indicated that if an organization's activities were directed at providing opportunities for social and recreational endeavors, the organization must show that these activities were insubstantial and incidental to its educational purposes.

[REDACTED]

Page 7.

Revenue Procedure 92-4, 1992-1, C.B., 572, provides in Section 8.01 that the Service may decline to issue a ruling or determination letter whenever warranted by the facts and circumstances of a particular case.

Revenue Procedure 90-27, 1990-1, C.B., 514, provides in Section 5.02 that "Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned, for carrying out the activities.

Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued.

In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal rights will be afforded."

With respect to your application under section 501(c)(3) of the Code, the information submitted indicates that your Articles of Incorporation satisfy the organizational test required to be recognized as tax exempt under section 501(c)(3) of the Code.

Concerning the operational test, you describe your activities as follows:

You state in your application that your primary activity will be to sponsor two [REDACTED] during [REDACTED]. Depending on funds available, one or two at risk youths between the ages of 14-19 will be selected to participate in this program. After completion of [REDACTED], the selected individual will be permitted to travel with an adult from the board of directors to learn about the culture and living conditions in [REDACTED] and [REDACTED].



You indicate in your response to our request for additional information regarding these [REDACTED] that to date, "no application form to apply for consideration for this program has been adopted, no curriculum has been prepared and that no itinerary or plan for the two week stay in [REDACTED] and [REDACTED] has been completed."

You plan to spend two weeks traveling in these areas, but you have not provided any detailed information about what you expect to do during this period to accomplish educational purposes. You have provided no information that would indicate how many hours per day will be devoted to organized instruction and there is no evidence in the file that shows that any resources such as books, pamphlets and other reference materials will be made available to the participants during their participation in this tour. You do, however, estimate that approximately 14 hours during this period will be available for sightseeing and similar recreational purposes.

In reviewing the proposed activities of your organization, we have concluded that your proposed activities are not exclusively educational since you have not, like the organization described in Revenue Ruling 70-534, shown that your activities are presented in a structured format, on a regular daily basis for a substantial portion of each day or that additional reference materials relating to the topics presented are available to the participants.

From the information submitted, it appears that your activities are more like those described in Revenue Ruling 77-366 and 78-43, where educational topics were presented on a limited basis with a substantial portion of time spent on recreational and sightseeing activities. Since you have not developed an application for participation in this program, a formal curriculum and written itinerary, we are unable to determine whether your proposed activities serve exclusively educational purposes.

In addition, since the majority of your proposed budget will be expended for travel for approximately [REDACTED] youth and [REDACTED] adults, with no other details concerning this trip, we cannot determine whether your organization serves the private interests of your board members and participants or the exclusively public purposes required to be exempt under section 501(c)(3).

As stated in Revenue Procedure 90-27, an organization "must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned for carrying on the activities."



Like the organizations described in LaVerdad v. Commissioner, Levy Family Tribe and General Conference of the Free Church v. Commissioner, you have not described your proposed activities in sufficient detail to enable us to make a determination whether you are operated exclusively for educational purposes and whether you serve public rather than private interests. An organization that fails either the organizational test or operational test cannot be exempt under section 501(c)(3).

Based on the information submitted, we have determined that you have not demonstrated that you are operated exclusively for purposes described in section 501(c)(3). In accordance with this determination, you are required to file federal income tax returns on Form 1120.

Contributions to your organization are not deductible as charitable contributions by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate state officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal, as explained in the enclosed Publication 892.

Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies.

[REDACTED]  
Page 10

Section 7428 (b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section will not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

*[Signature]*  
District Director

Enclosure: Publication 892

cc: [REDACTED]